

103^D CONGRESS
2^D SESSION

H. R. 4314

To reauthorize the Safe Drinking Water Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 1994

Ms. LAMBERT (for herself, Mr. SYNAR, and Mr. STUDDS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To reauthorize the Safe Drinking Water Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**
4 **ERENCES.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Safe Drinking Water Reform Act of 1994”.

7 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents; references.
- Sec. 2. Definitions.
- Sec. 3. State revolving funds.
- Sec. 4. State source water programs.
- Sec. 5. Exemptions for public water systems.
- Sec. 6. Protection from cryptosporidium.
- Sec. 7. Small system best available technology.
- Sec. 8. Sanitary surveys.
- Sec. 9. Drinking water research, education, and certification.
- Sec. 10. Occurrence data base.

Sec. 11. Monitoring for unregulated contaminants.
 Sec. 12. National drinking water regulations.
 Sec. 13. State drinking water program.
 Sec. 14. State programs for assuring system viability.
 Sec. 15. Emergency plans.
 Sec. 16. Internal system sources of contamination.
 Sec. 17. Reports to EPA.
 Sec. 18. Enforcement.

1 (c) REFERENCES TO TITLE XIV OF THE PUBLIC
 2 HEALTH SERVICE ACT.—Except as otherwise expressly
 3 provided, whenever in this Act an amendment or repeal
 4 is expressed in terms of an amendment to, or repeal of,
 5 a section or other provision, the reference shall be consid-
 6 ered to be made to a section or other provision of title
 7 XIV of the Public Health Service Act (commonly known
 8 as the “Safe Drinking Water Act”) (42 U.S.C. 300f et
 9 seq.).

10 **SEC. 2. DEFINITIONS.**

11 Section 1401 is amended by adding the following new
 12 paragraphs at the end thereof:

13 “(15) The term ‘community water system’
 14 means a public water system which serves at least
 15 15 service connections used by year-round residents
 16 or regularly serves at least 25 year-round residents.

17 “(16) The term ‘non-community water system’
 18 means a public water system that is not a commu-
 19 nity water system.

20 “(17) The term ‘underground source of drink-
 21 ing water’ means an aquifer or portion thereof—

1 “(A) which supplies any public water sys-
2 tem; or

3 “(B) which contains a sufficient quantity
4 of ground water to supply a public water sys-
5 tem and (i) currently supplies drinking water
6 for human consumption or (ii) contains fewer
7 than 10,000 mg/l total dissolved solids.

8 “(18) The term ‘State Source Water Assess-
9 ment Program’ means a State program which meets
10 the requirements of section 1428.

11 “(19) The term ‘drinking water protection area’
12 means, for any community water system, any sur-
13 face or subsurface area from or through which con-
14 taminants may reasonably be anticipated to move to-
15 ward, and enter, the system. Such term includes any
16 drinking water basin or ground water area, such as
17 an aquifer recharge area or the surface and sub-sur-
18 face area surrounding a water well or well field sup-
19 plying a community water system.

20 “(20) The term ‘source waters’ means the wa-
21 ters entering a community water system.”.

22 **SEC. 3. STATE REVOLVING FUNDS.**

23 Section 1443 is amended by redesignating subsection
24 (c) as (d) and by adding the following new subsection after
25 subsection (b):

1 “(c) STATE REVOLVING FUNDS.—

2 “(1) GENERAL AUTHORITY.—

3 “(A) GRANTS TO STATES TO ESTABLISH
4 REVOLVING FUNDS.—The Administrator shall
5 enter into agreements with States having pri-
6 mary enforcement responsibility for public
7 water systems to make capitalization grants, in-
8 cluding letters of credit, to the States under
9 this subsection to further the health protection
10 objectives of this Act. The grants shall be allot-
11 ted to the States in accordance with this section
12 and deposited in drinking water treatment re-
13 volving funds established by the State.

14 “(B) USE OF FUNDS.—Amounts deposited
15 in such revolving funds, including loan repay-
16 ments and interest earned on such amounts,
17 shall be used only for providing loans or other
18 financial assistance of any kind or nature that
19 the State deems appropriate to public water
20 systems. Such financial assistance may be used
21 by a public water system only for expenditures
22 (not including operation, and maintenance ex-
23 penditures and not including monitoring, except
24 as provided in section 1430(b)(2)) of a type or
25 category which the Administrator has deter-

1 mined, through guidance, will facilitate compli-
2 ance with national primary drinking water reg-
3 ulations applicable to such system under section
4 1411 or otherwise significantly further the
5 health protection objectives of this title. 15 per-
6 cent of the amount credited to any revolving
7 fund established under this section in any fiscal
8 year shall be available solely for providing loan
9 assistance to public water systems which regu-
10 larly serve less than 10,000 individuals.

11 “(C) FUND MANAGEMENT.—Each State
12 revolving fund under this subsection shall be es-
13 tablished, maintained, and credited with repay-
14 ments and interest. The fund corpus shall be
15 available in perpetuity for providing financial
16 assistance under this section. To the extent
17 amounts in each such fund are not required for
18 current obligation or expenditure such amounts
19 shall be invested in interest bearing obligations
20 of the State or of the United States. The Ad-
21 ministrator and the States shall take such steps
22 as may be necessary to insure that amounts
23 made available under this subsection are depos-
24 ited in State revolving funds and earning inter-
25 est as promptly as practicable after the com-

1 mencement of the fiscal year in which such
2 funds are made available.

3 “(D) GRANTS FROM REVOLVING FUNDS.—
4 A State may not provide assistance in the form
5 of grants from a State revolving fund estab-
6 lished under this subsection in an aggregate
7 amount which exceeds the sum of any interest
8 collected on deposits in such State revolving
9 fund plus amounts deposited in such fund by
10 the State pursuant to paragraph (3). Such
11 grants may only be made to public water sys-
12 tems owned by a governmental or inter-govern-
13 mental agency, a non-profit organization, an In-
14 dian tribe, or any combination thereof which
15 the State finds to be experiencing financial
16 hardship.

17 “(E) INVESTOR-OWNED PUBLIC WATER
18 SYSTEMS.—In the case of any public water sys-
19 tem not owned by a governmental or inter-gov-
20 ernmental agency, a non-profit organization, an
21 Indian tribe, or any combination thereof, the
22 State may provide assistance from a State re-
23 volving fund under this subsection only to those
24 systems having the greatest public health needs
25 and financial need. The State may provide loan

1 assistance to any such system from such a
2 State revolving fund only after making a deter-
3 mination that the system has the ability to
4 repay the loan according to its terms and condi-
5 tions. States are authorized to require such sys-
6 tems to identify a dedicated source for repay-
7 ment of the loans and to impose such other re-
8 quirements as may be necessary to assure loan
9 repayment.

10 “(2) SPECIFIC REQUIREMENTS.—The Adminis-
11 trator shall enter into an agreement with a State
12 under this subsection only after the State has estab-
13 lished to the satisfaction of the Administrator that—

14 “(A) the State will deposit all grants re-
15 ceived from the Administrator under this sub-
16 section, together with all repayments and inter-
17 est on such grants, in a drinking water treat-
18 ment revolving fund established by the State in
19 accordance with this subsection; and

20 “(B) no loan or other financial assistance
21 will be provided to a public water system from
22 such revolving fund to be used for any expendi-
23 ture that could be avoided or significantly re-
24 duced by appropriate consolidation of that pub-
25 lic water system with any other public water

1 system, except that in such cases such assist-
2 ance may be provided from the revolving fund
3 for such consolidation.

4 The Administrator, in consultation with the States
5 and public water systems, shall establish criteria to
6 be applied in determining when the consolidation of
7 public water systems is appropriate.

8 “(3) STATE CONTRIBUTION.—In the case of
9 grants made after fiscal year 1994, each agreement
10 under this subsection shall require that the State de-
11 posit in the fund from State moneys an amount
12 equal to at least 20 percent of the total amount of
13 the grant to be made to the State on or before the
14 date on which the grant payment is made to the
15 State.

16 “(4) COMBINED FINANCIAL ADMINISTRATION.—
17 Notwithstanding subparagraph (A) of paragraph
18 (2), a State may combine the financial administra-
19 tion of a revolving fund established under this sub-
20 section with the financial administration of any
21 other revolving fund established by the State if the
22 Administrator determines that—

23 “(A) the grants under this subsection, to-
24 gether with loan repayments and interest, will

1 be separately accounted for and used solely for
2 the purposes specified in paragraph (1); and

3 “(B) the authority to establish assistance
4 priorities and carry out oversight and related
5 activities (other than financial administration)
6 with respect to such assistance remains with
7 the State agency having primary responsibility
8 for administration of the State program under
9 this part.

10 “(5) FUND ADMINISTRATION.—(A) Each State
11 may use up to 4 percent of the grants in a revolving
12 fund established under this subsection to cover the
13 reasonable costs of administration of the assistance
14 program under this subsection and of providing
15 technical assistance to public water systems within
16 the State. For fiscal year 1994, each State may use
17 up to 2 percent of the grants in any such revolving
18 fund for public water system supervision if the State
19 matches such expenditures with at least an equal
20 amount of non-Federal funds (additional to the
21 amount expended by the State for public water su-
22 pervision in fiscal year 1993). An additional 1 per-
23 cent of the grants in such fund shall be used by each
24 State to provide technical assistance to public water
25 systems in such State.

1 “(B) The Administrator shall publish such
2 guidance and promulgate such regulations as may be
3 necessary to carry out the provisions of this section,
4 including—

5 “(i) provisions to ensure that each State
6 commits and expends funds from revolving
7 funds established under this subsection in ac-
8 cordance with this Act and applicable Federal
9 and State laws,

10 “(ii) guidance to prevent waste, fraud, and
11 abuse, and

12 “(iii) guidance to avoid the use of funds
13 made available under this subsection to finance
14 the expansion of any public water system in an-
15 ticipation of future population growth.

16 Such guidance and regulations shall also insure that
17 the States, and public water systems receiving as-
18 sistance under this subsection, use accounting, audit,
19 and fiscal procedures that conform to generally ac-
20 cepted accounting standards.

21 “(C) Each State administering a revolving fund
22 and assistance program under this subsection shall
23 publish and submit to the Administrator a report
24 every 2 years on its activities under this subsection,
25 including the findings of the most recent audit of

1 the fund. The Administrator shall periodically audit
2 all revolving funds established under this subsection
3 in accordance with procedures established by the
4 Comptroller General.

5 “(6) NEEDS SURVEY.—The Administrator shall
6 conduct an assessment of financial needs of all pub-
7 lic water systems in the United States and submit
8 a report to the Congress containing the results of
9 such assessment within 2 years after the date of the
10 enactment of this subsection.

11 “(7) INDIAN TRIBES.—One and 1/2 percent of
12 the amounts appropriated to carry out this sub-
13 section may be used by the Administrator to make
14 grants to Indian Tribes and Alaskan Native Villages
15 which are not eligible to receive either capitalization
16 grants from the Administrator under this subsection
17 or assistance from State revolving funds established
18 under this subsection. Such grants shall be used for
19 expenditures by such tribes and villages for public
20 water system expenditures referred to in paragraph
21 (1)(B).

22 “(8) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated to carry out
24 the purposes of this subsection \$599,000,000 for the
25 fiscal year 1994 and \$1,000,000,000 for each of the

1 fiscal years 1995, 1996, and 1997, and such sums
2 as may be necessary thereafter.

3 “(9) DEFINITION.—For purposes of this sub-
4 section, the term ‘State’ does not include the Dis-
5 trict of Columbia, the Virgin Islands, the Northern
6 Mariana Islands, American Samoa, Guam, and the
7 Trust Territory of the Pacific Islands. For purposes
8 of this subsection, the Administrator may treat any
9 Alaskan Native Village as a State in the same man-
10 ner as provided in section 1451 in the case of Indian
11 Tribes.”.

12 **SEC. 4. STATE SOURCE WATER PROGRAMS.**

13 (a) IN GENERAL.—Strike section 1428 and insert the
14 following after section 1427:

15 **“Subpart 2—State Source Water Assessment and**
16 **Pollution Prevention Programs**

17 **“SEC. 1428. STATE SOURCE WATER ASSESSMENT PRO-**
18 **GRAMS.**

19 “(a) STATE SOURCE WATER ASSESSMENT PRO-
20 GRAMS.—The Governor of each State shall, within 2 years
21 after the date of enactment of this section, adopt and sub-
22 mit to the Administrator a State Source Water Assess-
23 ment Program. Each such program shall, at a minimum—

24 “(1) ensure the implementation, within 4 years
25 after such date, (according to a written plan, with

1 schedules and milestones) of a local source water as-
2 sessment program under subsection (b) for each
3 community water system within the State;

4 “(2) provide for coordination among Federal,
5 State and local agencies with authority over ground
6 water and surface water and address priority-set-
7 ting, data collection and management; and

8 “(3) delineate all drinking water protection
9 areas within the State.

10 The Administrator shall issue guidance within 12 months
11 after enactment of this section to assist States in develop-
12 ing and implementing State Source Water Assessment
13 Programs.

14 “(b) LOCAL SOURCE WATER ASSESSMENT PRO-
15 GRAMS.—A local source water assessment program under
16 this subsection shall include each of the following
17 elements:

18 “(1) The program shall designate a local or re-
19 gional management entity for each area delineated
20 (as provided in subsection (a)) as a drinking water
21 protection area for any community water system or
22 systems. The local or regional management entity
23 shall be authorized to manage the local source water
24 assessment program for the drinking water protec-
25 tion area in cooperation with the community water

1 system or systems for which such area has been de-
2 lineated.

3 “(2) The program shall assess the susceptibility
4 of such community water system or systems to con-
5 tamination from sources, or categories of sources, of
6 contamination located within the drinking water pro-
7 tection area.

8 “(3) The program shall ensure public education
9 and participation to inform the customers of such
10 community water system or systems of the contami-
11 nation concerns within the drinking water protection
12 areas.

13 “(c) APPROVAL.—

14 “(1) IN GENERAL.—Within 9 months after re-
15 ceipt of a State Source Water Assessment Program,
16 the Administrator shall approve or disapprove the
17 State Program. If, in the judgment of the Adminis-
18 trator, the program (or any portion thereof) meets
19 the requirements of this section the Administrator
20 shall approve such program (or portion thereof).

21 “(2) ADDITIONAL AUTHORITIES OF THE ADMIN-
22 ISTRACTOR.—If a State fails to submit or implement
23 a State Source Water Assessment Program that
24 meets the requirements of this section, the Adminis-
25 trator may—

1 “(A) withhold capitalization grants, includ-
2 ing letters of credit, to the States under section
3 1443(c) (relating to State revolving funds);

4 “(B) delineate drinking water protection
5 areas in the State; or

6 “(C) take any combination of the foregoing
7 actions.

8 “(3) EPA REVIEW OF STATE PROGRAMS.—At
9 3-year intervals after the approval of a State Source
10 Water Assessment Program, the State shall submit
11 to the Administrator a status report concerning the
12 implementation of the program. The report shall in-
13 clude any amendments to the program during the 3-
14 year period covered by the report.

15 **“SEC. 1429. STATE DRINKING WATER POLLUTION PREVEN-**
16 **TION PROGRAMS; MONITORING RELIEF.**

17 “(a) STATE DRINKING WATER POLLUTION PREVEN-
18 TION PROGRAMS.—A State with primary enforcement re-
19 sponsibility under this part and an approved Source Water
20 Assessment Program may apply to the Administrator for
21 approval of a State Drinking Water Pollution Prevention
22 Program under this section. The State Drinking Water
23 Pollution Prevention Program shall specify each of the
24 following:

1 “(1) Procedures used by the State to issue or
2 deny monitoring relief under subsection (c) based on
3 the existence of local drinking water pollution pre-
4 vention programs. Such procedures shall specify that
5 monitoring relief under subsection (c) be available
6 only if a local drinking water pollution prevention
7 program is designed to ensure that drinking water
8 maximum contaminant levels will not be violated.
9 States may establish different procedures or alter-
10 native criteria for pollution prevention programs for
11 systems serving less than 3,300 persons.

12 “(2) Any additional State requirements or eligi-
13 bility criteria applicable to local drinking water pol-
14 lution prevention programs in order to receive mon-
15 itoring relief.

16 “(3) A form for application for monitoring re-
17 lief based on the existence of a local drinking water
18 pollution prevention program.

19 “(4) The availability of community technical as-
20 sistance for local drinking water systems.

21 “(b) APPROVAL OF STATE DRINKING WATER POL-
22 LUTION PREVENTION PROGRAMS.— The Administrator
23 shall, by regulation, prescribe the form and manner in
24 which a State shall apply for approval of a State Drinking
25 Water Pollution Prevention Program under this section.

1 Within 9 months after receipt of a State Drinking Water
2 Pollution Prevention Program, the Administrator shall ap-
3 prove or disapprove the State Program. If, in the judg-
4 ment of the Administrator, the program (or any portion
5 thereof) meets the requirements of this section and the
6 Administrator's regulations promulgated under this sec-
7 tion, the Administrator shall approve such program (or
8 portion thereof). The Administrator shall prescribe such
9 regulations as the Administrator deems necessary for a
10 State's Drinking Water Pollution Prevention Program and
11 for the alternative monitoring to be permitted under such
12 program, including regulations requiring limited baseline
13 monitoring by public water systems for each contaminant
14 covered by the alternative monitoring.

15 “(c) MONITORING RELIEF.—Any State with an ap-
16 proved State Drinking Water Pollution Prevention Pro-
17 gram may establish tailored monitoring (hereinafter in
18 this section referred to as ‘monitoring relief’) for public
19 water systems within the State the source waters of which
20 are covered by local drinking water pollution prevention
21 programs which meet the requirements of subsection (d).
22 The State shall approve monitoring relief for a specific
23 contaminant for a system only if monitoring demonstrates
24 that the contaminant is not present in the water supply
25 or, if present, is reliably and consistently at levels substan-

1 tially below the maximum contaminant level, taking into
2 account seasonal variations in contaminant levels. If a
3 contaminant covered by the monitoring relief program is
4 detected at levels above or close to the maximum contami-
5 nant level, the program shall provide that the public water
6 system must either—

7 “(1) demonstrate that the contamination source
8 has been removed or remedied to eliminate the con-
9 tamination problem, or

10 “(2) test for the detected contaminant pursuant
11 to monitoring regulations applicable under this part
12 to systems without monitoring relief for the detected
13 contaminant.

14 Monitoring relief under this section shall not apply to
15 microbiological contaminants or to contaminants caused in
16 part by the treatment or distribution of drinking water
17 (including corrosion byproducts, disinfection byproducts,
18 and lead).

19 “(d) LOCAL DRINKING WATER POLLUTION PREVEN-
20 TION PROGRAMS.—For purposes of this Act, the term
21 ‘local drinking water pollution prevention program’ means
22 a program which includes a local source water assessment
23 program under section 1428, together with each of the fol-
24 lowing additional elements:

1 “(1) A detailed inventory of contamination
2 sources, and a vulnerability assessment, for the
3 drinking water protection area.

4 “(2) Requirements for establishment and adop-
5 tion of management measures to assure pollution
6 prevention for significant sources of contaminants
7 within the drinking water protection area, including
8 each source in any category for which guidance is
9 provided by the Administrator. Such requirements
10 shall give a priority to contaminants covered by the
11 alternative monitoring program which are detected
12 at meaningful levels in the system’s drinking water.

13 “(3) Ongoing surveillance activities within the
14 drinking water protection area and field monitoring
15 periodically of significant contamination sources.

16 “(4) Reviews and updates of the program, in-
17 cluding the source inventory and vulnerability as-
18 sessment, to identify and control new and evolving
19 significant sources of contamination.

20 “(5) Public education activities to inform the
21 customers of such community water system or sys-
22 tems of the contamination concerns within the
23 drinking water protection area and the pollution pre-
24 vention management measures available which could
25 be utilized to address these concerns.

1 The Administrator shall issue, within 12 months after en-
2 actment of this section, guidance to describe, for different
3 categories of significant sources of contamination, pollu-
4 tion prevention management measures for drinking water
5 protection areas, and shall ensure consistency with other
6 applicable Federal programs.

7 “(e) SMALL SYSTEM POLLUTION PREVENTION PRO-
8 GRAMS.—Requirements for drinking water pollution pre-
9 vention programs for systems serving under 3,300 persons
10 may vary based on State criteria.

11 **“SEC. 1430. GENERAL PROVISIONS RELATING TO SOURCE**
12 **WATER ASSESSMENT AND DRINKING WATER**
13 **POLLUTION PREVENTION.**

14 “(a) PUBLIC PARTICIPATION.—Each State Source
15 Water Assessment Program and each local source water
16 assessment or local drinking water pollution prevention
17 program under this subpart shall include procedures to en-
18 courage the public to participate in developing the pro-
19 gram. Such procedures shall include notice and oppor-
20 tunity for public hearing on such program before it is sub-
21 mitted to the Administrator (or to the State in the case
22 of a local assessment or pollution prevention program).

23 “(b) FUNDING FOR LOCAL PROGRAMS.—Up to 10
24 percent of the amounts in a State Revolving Fund for

1 Drinking Water established under section 1443(c) may be
2 used for not more than 2 years—

3 “(1) to assist local management entities for
4 drinking water protection areas designated under a
5 State’s approved Source Water Assessment Program
6 in developing and implementing local source water
7 assessment and local drinking water pollution pre-
8 vention programs; and

9 “(2) to assist in paying the costs of source
10 water monitoring for any community water system
11 serving less than 3,300 persons for which a drinking
12 water pollution prevention program is in effect.

13 “(c) NON-COMMUNITY WATER SYSTEMS.—The Ad-
14 ministrator shall encourage States to establish local drink-
15 ing water pollution prevention programs for all non-com-
16 munity water systems and shall provide technical and
17 other guidance to the States on means for achieving this
18 objective.

19 “(d) GRANTS.—The Administrator shall make grants
20 to the States for not more than 90 percent of the costs
21 incurred by any State (as determined by the Adminis-
22 trator) in developing and implementing each approved
23 State Source Water Assessment Program and each ap-
24 proved State Drinking Water Pollution Prevention Pro-
25 gram.

1 “(e) SAVINGS.—Nothing in this part shall be con-
 2 strued to affect the Administrator’s authority to grant
 3 monitoring relief pursuant to regulations in effect on the
 4 date of the Safe Drinking Water Reform Act of 1994
 5 under section 1412.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
 7 Title XIV is amended as follows:

8 (1) Strike the heading for part C and insert the
 9 following:

10 **“PART C—DRINKING WATER POLLUTION**
 11 **PREVENTION.**

12 **“Subpart 1—Underground Injection”.**

13 (2) The table of contents is amended as follows:

14 (A) Strike the heading for part C and in-
 15 sert the following:

“PART C—DRINKING WATER POLLUTION PREVENTION

“Subpart 1—Underground Injection”.

16 (B) Strike the item relating to section
 17 1428 and insert after the item relating to sec-
 18 tion 1427 the following:

“Subpart 2—State Source Water Assessment and Pollution Prevention
 Programs

“Sec. 1428. State source water assessment programs.

“Sec. 1429. State Drinking Water Pollution Prevention Programs; monitoring
 relief.

“Sec. 1430. General provisions relating to source water assessment and drinking
 water pollution prevention.”.

1 **SEC. 5. EXEMPTIONS FOR PUBLIC WATER SYSTEMS.**

2 (a) EXEMPTIONS.—Section 1416(a) is amended by
3 striking “and” and the end of paragraph (2), striking the
4 period at the end of paragraph (3) and inserting “; and”
5 and by adding the following at the end thereof:

6 “(4) the source waters of the system are within
7 a drinking water protection area with a local drink-
8 ing water pollution prevention program established
9 and implemented in accordance with subpart 2 of
10 part C.

11 A State’s authority to grant exemptions under this sub-
12 section shall not apply to microbiological contaminants,
13 contaminants for which short-term exposure can cause
14 acute health effects, or to contaminants caused in part by
15 the treatment or distribution of drinking water (including
16 corrosion byproducts, disinfection byproducts, lead).”

17 (b) PROCEDURES AND REQUIREMENTS.—Section
18 1416 is amended by striking subsections (b) through (g)
19 and inserting:

20 “(b) ANALYSIS OF LOCAL DRINKING WATER POLLU-
21 TION PREVENTION PROGRAM.—An exemption under this
22 section shall be based on a written analysis demonstrating
23 that implementation of the local drinking water pollution
24 prevention program will result in—

25 “(1) full compliance with the maximum con-
26 taminant level for each contaminant subject to the

1 exemption within a reasonable period not to exceed
2 5 years, and

3 “(2) an interim supply of drinking water that
4 protects public health for the limited duration of the
5 exemption.

6 The analysis shall be prepared in accordance with regula-
7 tions issued by the Administrator and taking into account
8 seasonal variations in contaminant levels. Each State
9 which issues an exemption under this section shall prompt-
10 ly notify the Administrator of the exemption, including the
11 basis for the analysis under this subsection.

12 “(c) STATE PROVISIONS.—An exemption under this
13 subsection for any public water system shall require imple-
14 mentation by the public water system of such control
15 measures and interim milestones as the State may require
16 for each contaminant subject to the exemption. Before
17 granting an exemption under this section, the State shall
18 provide public notice to each drinking water consumer and
19 an opportunity for comment. A notice given pursuant to
20 the preceding sentence may cover the granting of more
21 than one such exemption.”.

22 **SEC. 6. PROTECTION FROM CRYPTOSPORIDIUM.**

23 Section 1412(b)(3) is amended by adding the follow-
24 ing new subparagraph at the end thereof:

1 “(E) Not later than 3 years after the enactment of
2 this subparagraph the Administrator shall publish a maxi-
3 mum contaminant level goal and promulgate a national
4 primary drinking water regulation for cryptosporidium.
5 Paragraph (10) shall not apply for purposes of such regu-
6 lations but such regulations shall take effect within 30
7 months after the date of promulgation.”.

8 **SEC. 7. SMALL SYSTEM BEST AVAILABLE TECHNOLOGY.**

9 (a) SMALL SYSTEM VARIANCES.—Section 1415 is
10 amended by adding at the end the following:

11 “(e) SMALL SYSTEM VARIANCES.—(1) A State with
12 primary enforcement responsibility under this part may
13 grant to owners or operators of community water systems
14 variances under this subsection from maximum contami-
15 nant level requirements or treatment technique require-
16 ments if the systems comply with this subsection and the
17 regulations promulgated by the Administrator under this
18 subsection.

19 “(2) Only community water systems which serve
20 fewer than 3,300 persons and which cannot comply with
21 national primary drinking water regulations through re-
22 structuring or obtaining alternate supplies of drinking
23 water shall be eligible for a variance under this subsection.
24 A variance under this subsection may be issued only if

1 the State finds that the variance would protect public
2 health, considering the limited duration of the variance.

3 “(3) The Administrator shall promulgate regulations
4 regarding variances issued under this subsection. The reg-
5 ulations shall include each of the following—

6 “(A) Procedures to be used by a State to issue
7 or deny such variances or to issue conditional ap-
8 proval of such a variance.

9 “(B) Eligibility criteria for the variance, includ-
10 ing—

11 “(i) the quality of source water and the
12 adequacy of drinking water pollution prevention
13 programs for eligible systems; and

14 “(ii) the financial and technical capacity of
15 eligible systems, including operator qualifica-
16 tions.

17 “(C) A form for applications for the variance,
18 and requirements respecting the time by which ap-
19 plications must be submitted.

20 “(D) Requirements for the installation and
21 proper operation, by each system subject to the vari-
22 ance, of technology identified by the Administrator
23 as feasible (within the meaning of section
24 1412(b)(5)) for community water systems serving

1 fewer than 3,300 persons (referred to in this Act as
2 ‘small system best available technology’).

3 In order to reduce costs, variances may be granted under
4 this subsection in a single process for more than one sys-
5 tem and any variance may cover individual contaminants
6 or categories of contaminants. Variances under this sub-
7 section shall be granted without regard to subsections (a)
8 through (d) of this section.

9 “(4) No application for a variance under this sub-
10 section may be submitted after the date 2 years after the
11 later of the following:

12 “(A) The date of promulgation of regulations
13 under paragraph (3).

14 “(B) The date of promulgation of the maximum
15 contaminant level with respect to which such vari-
16 ance is issued.

17 “(5) A variance under this subsection shall be in ef-
18 fect for 5 years except as provided in paragraph (6). Upon
19 the application of a system, a State may renew a variance
20 for additional 5-year terms upon a determination that the
21 system remains eligible for the variance and is conforming
22 to all conditions of the variance.

23 “(6) A State shall at any time revoke a variance in
24 effect under this subsection if the State finds that the sys-
25 tem is no longer eligible for the variance, that the system

1 has failed to comply with any term or condition of the
2 variance, or that the continued application of the variance
3 would not protect public health.

4 “(7) The failure or refusal of any person to comply
5 with any term or condition of a variance in effect under
6 this subsection shall be a violation of this Act.”.

7 **SEC. 8. SANITARY SURVEYS.**

8 Section 1413(a)(2) is amended by inserting after “by
9 regulation” the following: “and such inspections as may
10 be necessary to comply with the ‘Guidelines for Sanitary
11 Surveys’ published by the Administrator”. In the case of
12 States exercising primary enforcement responsibility
13 under section 1413 of the Safe Drinking Water Act, the
14 amendment made by the preceding sentence shall take ef-
15 fect on the date 18 months after the enactment of this
16 Act.

17 **SEC. 9. DRINKING WATER RESEARCH, EDUCATION, AND**
18 **CERTIFICATION.**

19 (a) PROFICIENCY CERTIFICATION.—(1) Section
20 1413(a) is amended by striking “and” at the end of para-
21 graph (4), by striking the period at the end of paragraph
22 (5) and inserting a semicolon, and by adding the following
23 at the end thereof:

24 “(6) has adopted and is implementing (within 1
25 year after the adoption of regulations under section

1 1442(h)) requirements for the certification of opera-
2 tors of all public water systems and laboratories con-
3 ducting tests pursuant to this part consistent with
4 the standards under section 1442(h); and”.

5 (2) Section 1442 is amended by adding the following
6 at the end thereof:

7 “(h) PROFICIENCY.—Not later than 2 years after the
8 date of the Safe Drinking Water Reform Act of 1994, the
9 Administrator shall publish regulations specifying mini-
10 mum standards for certification (and recertification) of
11 the operators of public water systems, laboratories con-
12 ducting tests pursuant to this Act, and such additional
13 personnel as may be designated by the Administrator.
14 Such regulations shall provide for alternative standards in
15 the case of programs in existence prior to the date of pro-
16 mulgation of the regulations. Such alternative standards
17 shall assure an equivalent level of proficiency.”.

18 (b) AVAILABILITY OF TECHNOLOGIES.—Section
19 1442 is amended by adding the following new subsection
20 after subsection (g):

21 “(h) AVAILABLE TECHNOLOGIES.—Whenever the
22 Administrator promulgates a new national primary drink-
23 ing water standard under section 1412, the Administrator
24 shall simultaneously publish information identifying tech-
25 nologies available (if any) to meet such standard in the

1 case of public water systems serving 50,000 persons, pub-
2 lic water systems serving 10,000 persons, and public water
3 systems serving 3,300 persons.”.

4 **SEC. 10. OCCURRENCE DATA BASE.**

5 Section 1445 is amended by adding the following at
6 the end thereof:

7 “(g) OCCURRENCE DATA BASE.—Not later than 24
8 months after the enactment of this subsection, the Admin-
9 istrator shall assemble and maintain a national drinking
10 water occurrence data base, using monitoring data on the
11 occurrence of both regulated and unregulated contami-
12 nants in public water supply systems obtained under this
13 Act and information from other public and private
14 sources.”.

15 **SEC. 11. MONITORING FOR UNREGULATED CONTAMI-**
16 **NANTS.**

17 (a) REVIEW AND REVISION.—Section 1445(a)(2) is
18 amended by adding the following at the end thereof: “The
19 Administrator shall review and, if necessary, revise the list
20 of unregulated contaminants under this paragraph within
21 24 months after the enactment of the Safe Drinking
22 Water Reform Act of 1994, and at least every 5 years
23 thereafter. Such list shall include no more than 40
24 contaminants.”.

1 (b) OCCURRENCE DATA BASE.—Section 1445(a)(4)
2 is amended by adding at the end: “The State shall provide
3 such data to the Administrator for purposes of inclusion
4 in the occurrence data base under section 1445(g).”.

5 **SEC. 12. NATIONAL DRINKING WATER REGULATIONS.**

6 (a) SELECTION OF NEW CONTAMINANTS FOR REGU-
7 LATION.—Section 1412(b)(3) is amended to read as
8 follows:

9 “(3)(A)(i) The Administrator, in consultation with
10 the Science Advisory Board, shall select and publish a list
11 of no fewer than 15 unregulated contaminants that, in the
12 judgment of the Administrator, present the greatest public
13 health concern among unregulated contaminants for per-
14 sons served by public water systems. In making such selec-
15 tion, the Administrator shall consider the occurrence data
16 base established under section 1445(g) and contaminants
17 referred to in section 101(14) of the Comprehensive Envi-
18 ronmental Response, Compensation, and Liability Act of
19 1980 and pesticides registered under the Federal Insecti-
20 cide, Fungicide, and Rodenticide Act. The Administrator
21 may publish the initial list at any time after the date of
22 enactment of the Safe Drinking Water Reform Act of
23 1994, but shall publish such initial list not later than 1
24 year after such date.

1 “(ii) After publication of the initial list, the Adminis-
2 trator shall, at 4-year intervals, select 12 or more addi-
3 tional contaminants for listing until such time as the Ad-
4 ministrator determines, by rule, that the unregulated con-
5 taminants that present a public health concern to public
6 water systems have been candidates for listing and have
7 been listed or rejected. Such determination may not be ini-
8 tiated before the year 2010. After such determination is
9 final, the Administrator may thereafter list additional con-
10 taminants at any time.

11 “(iii) Each proposed list under clause (i) or (ii) shall
12 be published for public comment (which may include con-
13 sideration of substitutes for the list) for a period of at
14 least 60 days. The Administrator shall publish a final list
15 within 6 months after close of the public comment period
16 and not later than 1 year after publication of the proposed
17 list.

18 “(iv) The Administrator’s decision to select or not se-
19 lect a contaminant for inclusion on the list shall not be
20 subject to judicial review.

21 “(B)(i) Not later than 30 months after publication
22 of the final list of contaminants under subparagraph (A),
23 the Administrator shall propose and promulgate, by rule,
24 a determination whether or not to regulate each contami-
25 nant on such list, or added to the list. The Administrator

1 shall determine to regulate a contaminant on, or added
2 to, the list if, in the judgment of the Administrator—

3 “(I) the contaminant is known to occur in pub-
4 lic water systems;

5 “(II) based on the best available health infor-
6 mation, the contaminant occurs in public water sys-
7 tems in such concentration that it has or may have
8 any adverse effect on the health of persons; and

9 “(III) the regulation of the contaminant would
10 present a meaningful opportunity for public health
11 risk reduction for persons served by public water
12 systems, taking costs into consideration.

13 “(ii) The Administrator may extend, by notice in the
14 Federal Register, for up to 9 months the 30-month period
15 within which the Administrator is required to make a final
16 determination under clause (i) for any or all of the con-
17 taminants on the list.

18 “(iii) The Administrator shall make a separate deci-
19 sion for each contaminant on the list, but such decision
20 may be made in a single consolidated rulemaking.

21 “(iv) The Administrator may at any time determine
22 to regulate a contaminant not listed under subparagraph
23 (A) in accordance with clause (i).

24 “(C) For each contaminant listed under subpara-
25 graph (A) that the Administrator has determined pursu-

1 ant to subparagraph (B) to regulate under this part, the
2 Administrator shall propose, simultaneously with the de-
3 termination or not later than 18 months thereafter, a
4 maximum contaminant level goal and national primary
5 drinking water regulation under the provisions of sub-
6 section (b)(4) and (5). The Administrator shall promul-
7 gate, by rule, a final maximum contaminant level goal and
8 national primary drinking water regulation under such
9 provisions within 18 months after the proposal. The Ad-
10 ministrator may extend, by notice in the Federal Register,
11 for up to 9 months, the 18-month period for promulgation
12 of a final goal and regulation for all contaminants or any
13 contaminant.

14 “(D) The Administrator may publish health
15 advisories (which shall not be regulations) or take other
16 appropriate actions respecting contaminants not subject to
17 a national primary drinking water regulation.”.

18 (b) REVIEW OF NATIONAL PRIMARY DRINKING
19 WATER REGULATIONS.—Section 1412(b)(9) is amended
20 to read as follows:

21 “(9) National primary drinking water regulations (in-
22 cluding monitoring requirements) shall be amended when-
23 ever the Administrator determines that changes in tech-
24 nology, treatment techniques, and other means permit
25 greater protection of the health of persons, but in any

1 event such regulations shall be reviewed at least once every
2 5 years. Such review shall include an analysis of innova-
3 tions or changes in technology, treatment techniques or
4 health effects research and occurrence data that have oc-
5 curred over the previous 5-year period. The Administrator
6 shall publish the findings of such review in the Federal
7 Register.”.

8 (c) REMOVAL OF REGULATION.—Section 1412(b)(3)
9 is amended by adding the following new paragraph at the
10 end thereof:

11 “(E) The Administrator may remove a contaminant
12 from the list under subparagraph (A) and repeal the na-
13 tional primary drinking water standard for any such con-
14 taminant if the Administrator determines that such con-
15 taminant is not known to occur in public water systems
16 or has not been demonstrated to have any adverse health
17 effect on persons.”.

18 (d) COMPLIANCE DATES.—Section 1412(b)(10) is
19 amended to read as follows:

20 “(10) Within 24 months after the adoption of a na-
21 tional primary drinking water regulation under this sub-
22 section (or any amendments thereto) each State exercising
23 primary enforcement responsibility under section 1413
24 shall adopt corresponding State regulations under section
25 1413(a)(1). The Administrator shall specify the date upon

1 which public water systems must comply with each na-
2 tional primary drinking water regulation promulgated
3 under this subsection (or any amendments thereto). Such
4 compliance date may not be more than 36 months after
5 the date of promulgation, except that if the Administrator
6 determines that additional time is necessary for capital
7 improvements required to meet the national primary
8 drinking water regulations, the Administrator may estab-
9 lish a later compliance date. Such later date shall not be
10 later than 48 months after the date of promulgation (or
11 60 months in the case of systems serving less than 3,300
12 individuals). Each State with primary enforcement respon-
13 sibility may determine eligibility for any extension beyond
14 36 months. Nothing under this paragraph shall limit the
15 discretion of the Administrator to differentiate among the
16 compliance dates on the basis of system size or other fac-
17 tors considered appropriate by the Administrator, or to
18 establish interim compliance milestones.”.

19 (e) PROTECTION OF CHILDREN, INFANTS, ETC.—
20 Section 1412(b) is amended by adding the following at the
21 end thereof:

22 “(12) In promulgating and revising national primary
23 drinking water regulations under this section the Adminis-
24 trator shall assess and take into account children, infants,
25 pregnant women, the elderly, and highly susceptible or vul-

nerable populations. In promulgating each new standard after the enactment of this paragraph, the Administrator shall identify the impacts on such populations.”.

SEC. 13. STATE DRINKING WATER PROGRAM.

(a) FUNDING.—(1) Section 1443(a)(4) is amended by striking “number of public water systems” and by adding the following after the first sentence: “The Administrator shall revise regulations regarding the allotments under this paragraph in such manner as may be necessary to provide incentives for the restructuring of nonviable public water systems.”.

(2) Section 1443(a)(7) is amended by adding the following at the end of the table:

| | |
|-------------|-----------------|
| “1995 | \$100,000,000 |
| 1996 | \$100,000,000 |
| 1997 | \$100,000,000 |
| 1998 | \$100,000,000 |
| 1999 | \$100,000,000 |
| 2000 | \$100,000,000”. |

(b) STATE DRINKING WATER PROTECTION PROGRAM FUNDS.—(1) Section 1443 is amended by redesignating subsection (c) as (e) and inserting the following after subsection (b):

“(c) STATE DRINKING WATER PROTECTION PROGRAM FUNDS.—(1) Within 1 year of the date of promulgation of regulations under paragraph (2), and every 3 years thereafter, each State with primary enforcement responsibility shall submit to the Administrator a State im-

1 plementation and funding plan for carrying out primary
2 enforcement responsibilities and other requirements of
3 this Act during the 3 year period following the year in
4 which the plan is submitted. In each year other than a
5 year in which such a plan is submitted, each such State
6 shall submit a report describing the progress made in car-
7 rying out the plan. The State shall also establish a State
8 Drinking Water Protection Fund in accordance with para-
9 graph (2)(C) unless the State determines that other fund-
10 ing sources are sufficient.

11 “(2) The Administrator shall promulgate regulations
12 within 18 months of the date of enactment of this section
13 establishing each of the following.—

14 “(A) The form and content for the State plans
15 referred to in this subsection.

16 “(B) Minimum program performance objectives
17 for State safe drinking water programs, including
18 criteria for determining sufficient State program re-
19 sources.

20 “(C) Requirements for establishment of State
21 Drinking Water Protection Funds, including provi-
22 sions governing the structure and financial manage-
23 ment of State drinking water implementation funds.

24 “(3) Each State Drinking Water Protection Fund es-
25 tablished under this subsection shall be dedicated solely

1 for use by the State to cover the cost of services directly
2 related to primary enforcement responsibilities and other
3 requirements of this Act.

4 “(4) If a State determines that a Drinking Water
5 Protection Fund is necessary under this subsection, each
6 community water system in the State shall pay a fee to
7 the State for deposit into the State Fund. The fee shall
8 be based on the amount of water supplied (or if data on
9 such amount is not available, on the number of persons
10 served by the community water system). The fee shall be
11 set at a level determined by the State to ensure sufficient
12 funding for implementing primary enforcement respon-
13 sibilities of the State, taking into account other available
14 funding sources.

15 “(5) Within 60 days following the submission of a
16 State plan under paragraph (1), the Administrator shall
17 approve or disapprove the plan. The Administrator shall
18 approve the plan if the Administrator determines that the
19 plan complies with the requirements of this subsection and
20 provides sufficient resources for fully implementing the
21 State’s primary enforcement responsibilities and other re-
22 quirements of this Act.

23 “(6) If the Administrator determines that a State
24 plan submitted under paragraph (1) does not have suffi-
25 cient resources to carry out the State plan, the State shall

1 establish a State Drinking Water Protection Fund which
2 meets the same conditions and requirements as in the case
3 of a fund under paragraph (2)(C) and collect a fee meet-
4 ing the requirements of paragraph (4) as a condition of
5 continued primary enforcement authority.

6 “(7) If the Administrator is exercising primary en-
7 forcement authority under this part in a State, the Admin-
8 istrator shall establish a permit program for each public
9 water system regulated by the Administrator in that State
10 and shall assess and collect a fee to cover the Administra-
11 tor’s costs of administering such permit program. Such
12 fee may not exceed the greater of \$5.50 per year per serv-
13 ice connection served by the system subject to the fee or
14 \$0.05 per 1,000 gallons of water delivered. Revenues from
15 such fee shall be deposited in the fund established under
16 paragraph (8).

17 “(8) There is established in the Treasury of the
18 United States a fund to be known as the Public Drinking
19 Water System Supervision Fund (referred to in this para-
20 graph as the ‘Fund’) consisting of the fees collected under
21 paragraph (7) and penalties and interest under paragraph
22 (9). Subject to annual appropriations, the Secretary of the
23 Treasury shall transfer from the Fund to the Adminis-
24 trator such amounts as necessary to carry out the Admin-
25 istrator’s responsibilities in those States in which the Ad-

1 administrator is exercising primary enforcement authority
2 under this part.

3 “(9) Any water system that fails to pay any fee re-
4 ferred to in this subsection within 6 months after the due
5 date shall pay the required fee plus a penalty of 50 percent
6 of the amount of the fee, together with interest on the
7 unpaid amount, as determined by the Administrator.

8 “(d) GRANTS FOR STATE SOURCE WATER ASSESS-
9 MENT, STATE DRINKING WATER POLLUTION PREVEN-
10 TION, AND STATE VIABILITY PROGRAMS.—For purposes
11 of making grants under section 1430(f) (relating to grants
12 for approved State Source Water Assessment Programs
13 and approved State Drinking Water Pollution Prevention
14 Programs) and under part G (relating to system viability)
15 there is authorized to be appropriated not more than the
16 following amounts:

| “Fiscal Year: | Amount: |
|----------------------|----------------|
| 1995 | \$20,000,000 |
| 1996 | \$20,000,000 |
| 1997 | \$20,000,000 |
| 1998 | \$20,000,000 |
| 1999 | \$20,000,000. |

17 No funds authorized to be appropriated under this sub-
18 section may be used to support activities required to be
19 carried out under the Federal Water Pollution Control
20 Act, the Solid Waste Disposal Act, the Comprehensive En-
21 vironmental Response, Compensation and Liability Act of
22 1980, or other sections of this Act.”.

1 (2) Section 1413(a) is amended by adding the follow-
 2 ing after paragraph (6):

3 “(7) has adopted and is implementing a fund-
 4 ing plan in accordance with section 1443(c); and”

5 **SEC. 14. STATE PROGRAMS FOR ASSURING SYSTEM**
 6 **VIABILITY.**

7 The Act is amended by adding the following at the
 8 end thereof:

9 **“PART G—PUBLIC WATER SYSTEM CAPABILITY**
 10 **PROGRAM**

11 **“SEC. 1481. STATE VIABILITY PROGRAMS.**

12 “(a) GENERAL REQUIREMENT.—Each State shall
 13 adopt and implement a State Drinking Water System Via-
 14 bility Program for assuring the capability of public water
 15 systems to comply with the requirements of this Act.

16 “(b) MINIMUM PROGRAM ELEMENTS.—The Adminis-
 17 trator shall promulgate regulations requiring each State
 18 Drinking Water System Viability Program (hereinafter in
 19 this section referred to as the ‘State Viability Program’)
 20 to include each of the following elements:

21 “(1) A program for issuing operating permits
 22 or other means of tracking the establishment of new
 23 public water systems, including authorities to insure
 24 that all new public water systems are able to fully
 25 comply with existing and anticipated national pri-

1 mary drinking water regulations and other require-
2 ments of this Act.

3 “(2) A program for assessing the long-term
4 ability of public water systems to comply with the
5 requirements of this Act. For other than transient
6 water systems, the assessment shall be completed
7 within 5 years following the approval of a State’s
8 program under this section.

9 “(3) Legal authorities to order the restructur-
10 ing of systems that repeatedly violate national pri-
11 mary drinking water regulations or other require-
12 ments of this Act and lack the managerial, technical,
13 or financial capability to comply with such regula-
14 tions.

15 “(4) Requirements for periodic reporting to
16 demonstrate continued progress in the implementa-
17 tion of State viability programs.

18 “(c) FINAL REGULATIONS.—The Administrator shall
19 promulgate final regulations for State programs under
20 this section not more than 18 months following the date
21 of enactment of the Safe Drinking Water Reform Act of
22 1994.

23 “(d) AUTHORITY TO VARY.—The Administrator may
24 vary minimum program elements described in subsection

1 (b) on the basis of the size and type of public water sys-
2 tems, and on the basis of source water characteristics.

3 “(e) SUBMISSION OF PROGRAM.—Within 2 years of
4 the date of promulgation of final regulations under sub-
5 section (c), each State exercising primary enforcement re-
6 sponsibility pursuant to section 1413 shall submit to the
7 Administrator a State program that shall—

8 “(1) at a minimum, meet the requirements of
9 the regulations described in subsection (b);

10 “(2) specify the duties of State agencies, local
11 governmental entities, and public water supply sys-
12 tems with respect to the implementation of the State
13 Viability Program; and

14 “(3) identify the resources that will be commit-
15 ted to implementation of the State Viability Pro-
16 gram.

17 “(f) STATES IMPLEMENTING PROGRAMS BEFORE
18 DEADLINE.—States that are implementing a State Viabil-
19 ity Program prior to the promulgation of the regulations
20 under subsection (c) may request a waiver from one or
21 more of the requirements of this subsection. In the case
22 of any such State, the Administrator may waive one or
23 more of the requirements of this subsection if the Admin-
24 istrator determines that the State program is fully achiev-
25 ing the objectives of this subsection.

1 “(g) APPROVAL OR DISAPPROVAL.—The Adminis-
2 trator shall approve or disapprove a State Viability Pro-
3 gram no more than 180 days after the submission of such
4 State program. The Administrator shall approve the pro-
5 gram if it meets the requirements of this part and dis-
6 approve the program if it fails to meet such requirements.

7 “(h) SYSTEMS IN COMPLIANCE—Nothing in this sec-
8 tion shall be construed to require any State to prohibit
9 the operation of any small public water system which is
10 in compliance with this Act.

11 **“SEC. 1482. FINANCIAL ASSISTANCE FOR VIABILITY PRO-**
12 **GRAMS.**

13 “(a) AVAILABILITY OF SRF GRANTS.—Each State,
14 as a condition of a full capitalization grant under section
15 1443(c) (after the first fiscal year after the enactment of
16 the Safe Drinking Water Reform Act of 1994) shall estab-
17 lish a program for identifying and assessing over a 5-year
18 period long-term technical, managerial, and financial ca-
19 pability of community public water systems to maintain
20 compliance with this Act. Until such program is estab-
21 lished, no such grant may exceed 50 percent of the alloca-
22 tion otherwise available. No such grants shall be available
23 under section 1443(c) for any State for any fiscal year
24 after the third fiscal year after the fiscal year in which
25 the Administrator promulgates final regulations under

1 this part unless the State has an approved system viability
2 program under this part.

3 “(b) NEW SYSTEM VIABILITY.—No financial assist-
4 ance of any kind shall be available under this Act to any
5 public water system that commences operations after the
6 enactment of this section unless the Administrator deter-
7 mines that the State has an effective operating permit pro-
8 gram or other means to ensure in advance that the system
9 has the management and technical capacity and financial
10 capability, taking into account its customer base and other
11 relevant factors, to comply and maintain compliance with
12 the applicable requirements of this Act.”.

13 **SEC. 15. EMERGENCY PLANS.**

14 (a) ADDITIONAL REQUIREMENTS.—Section
15 1413(a)(5) is amended by adding after “circumstances”
16 the following “including floods, earthquakes, and other
17 natural disasters which may cause drinking water con-
18 tamination”. In the case of States exercising primary en-
19 forcement responsibility under section 1413 of the Safe
20 Drinking Water Act, the amendment made by the preced-
21 ing sentence shall take effect on the date 18 months after
22 the enactment of this Act.

23 (b) EPA REVIEW.—Section 1413 is amended by add-
24 ing the following at the end thereof:

1 “(c) EMERGENCY PLANS.—The Administrator shall
2 review each emergency plan adopted pursuant to sub-
3 section (a)(5) within 1 year after the enactment of this
4 subsection and shall make a determination of the ade-
5 quacy of each such plan. The Administrator shall promptly
6 notify the system of any inadequacy in the plan. If the
7 Administrator finds that any such plan is inadequate, the
8 system shall be treated as failing to comply with sub-
9 section (a)(5) unless the plan is amended within 6 months
10 after such notice.”.

11 **SEC. 16. INTERNAL SYSTEM SOURCES OF CONTAMINATION.**

12 Section 1412(b) is amended by adding the following
13 new paragraph at the end thereof:

14 “(14)(A) Not later than 1 year after the enactment
15 of this paragraph, the Administrator shall promulgate a
16 national primary drinking water regulation requiring all
17 public water systems to routinely inspect distribution sys-
18 tems where they are located in proximity to sewer system
19 lines to detect any contamination from leakage in the
20 sewer system lines and to maintain such system to protect
21 against such contamination.

22 “(B) Not later than 1 year after the enactment of
23 this paragraph, the Administrator shall promulgate a na-
24 tional primary drinking water regulation prohibiting any
25 public water system from recycling into drinking water

1 supplies any untreated material ('backwash') which has
2 been discharged from the public water system's drinking
3 water filtration devices.'".

4 **SEC. 17. REPORTS TO EPA.**

5 Section 1413(a)(3) is amended by adding the follow-
6 ing before the semicolon at the end thereof: “, including
7 quarterly reports to the Administrator listing all instances
8 of failure, during the preceding quarter, to comply with
9 any requirement of this Act or of any regulation under
10 this Act”.

11 **SEC. 18. ENFORCEMENT.**

12 Section 1414 is amended by adding the following new
13 subsection at the end thereof:

14 “(h) ADMINISTRATIVE PENALTY ORDERS.—

15 “(1) PROMULGATION OF PROCEDURES.—The
16 Administrator shall by regulation, in accordance
17 with the provisions of this subsection, establish ad-
18 ministrative penalty procedures for use in any case
19 in which the Administrator finds that any person
20 has violated any applicable requirement of this part
21 or has failed to comply with an order requiring com-
22 pliance issued pursuant to subsection (g).

23 “(2) CLASS I AND CLASS II ORDERS.—Subject
24 to the procedures established under paragraph (1),
25 the Administrator may—

1 “(A) after notice and opportunity for hear-
2 ing that is not subject to sections 554 and 556
3 of title 5, United States Code, assess a class I
4 civil penalty in an amount not to exceed
5 \$10,000 per day per violation, except that the
6 maximum amount of a class I civil penalty shall
7 not exceed \$200,000; or

8 “(B) after notice and opportunity for a
9 hearing on the record in accordance with sec-
10 tion 554 of title 5, United States Code, assess
11 a class II civil penalty in an amount not to ex-
12 ceed \$10,000 per day per violation.

13 “(C) Notwithstanding the provisions of
14 subparagraphs (A) and (B), the Adminis-
15 trator—

16 “(i) shall not issue a class I civil pen-
17 alty order to a Federal agency;

18 “(ii) may assess a class II civil pen-
19 alty against a Federal agency that does
20 not exceed \$25,000 per day per violation;
21 and

22 “(iii) shall employ procedures for or-
23 ders requiring compliance by Federal agen-
24 cies in accordance with regulations promul-

1 gated pursuant to paragraph (1) and para-
2 graph (2)(B).

3 “(D) Any interested person may obtain re-
4 view of a civil penalty order issued to a Federal
5 agency in accordance with the procedures pro-
6 vided for respondents under paragraph (6)(A).

7 “(3) FINALITY OF ORDERS.—An order assess-
8 ing a civil penalty under this subsection shall become
9 final not later than 30 days after the order is issued,
10 except that an order issued upon consent shall be-
11 come final upon issuance of the order. No order is-
12 sued to a Federal agency under this section shall be-
13 come final until such Federal agency has had an op-
14 portunity to confer with the Administrator.

15 “(4) ELECTION OF CIVIL PENALTY REMEDY.—
16 Civil penalties for a violation of this Act shall not be
17 assessed under both this subsection and subsection
18 (b).

19 “(5) COLLECTION.—If any person fails to pay
20 an assessment of a civil penalty after the order mak-
21 ing the assessment has become final, or after a court
22 in an action brought under paragraph (6) has en-
23 tered a final judgment in favor of the Administrator,
24 the Administrator shall request the Attorney General
25 to bring a civil action in an appropriate district

1 court to recover the amount assessed (plus interest
2 at currently prevailing rates from the date of the
3 final order or the date of the final judgment, as the
4 case may be). In the action, the validity, amount,
5 and appropriateness of the penalty shall not be sub-
6 ject to judicial review. Any person who fails to pay
7 on a timely basis the amount of an assessment of a
8 civil penalty as described in the first sentence of this
9 paragraph shall be required to pay, in addition to
10 such amount and interest, attorneys fees and costs
11 for collection proceedings and a quarterly
12 nonpayment penalty for each quarter during which
13 such failure to pay persists. Such nonpayment pen-
14 alty shall be in an amount equal to 20 percent of the
15 aggregate amount of such person's penalties and
16 nonpayment penalties which are unpaid as of the be-
17 ginning of such quarter.

18 “(6) JUDICIAL REVIEW.—

19 “(A) IN GENERAL.—Any person against
20 whom a penalty order is issued under this sub-
21 section, except upon consent, may obtain review
22 of the order in the United States District Court
23 for the District of Columbia Circuit or in the
24 district court in the district in which the viola-
25 tion is alleged to have occurred by filing, during

1 the 30-day period beginning on the date the
2 penalty order becomes final, a notice of appeal
3 and a complaint with the court. The person
4 shall simultaneously send a copy of the notice
5 and complaint by certified mail to the Adminis-
6 trator and the Attorney General. The Adminis-
7 trator shall promptly file in such court a cer-
8 tified copy of the record on which the order was
9 issued.

10 “(B) STANDARD OF REVIEW.—The court
11 shall not set aside or remand the order unless
12 the court finds that there is not substantial evi-
13 dence in the record, taken as a whole, to sup-
14 port the finding of a violation or that the as-
15 sessment of the penalty by the Administrator
16 constitutes an abuse of discretion. The court
17 may not impose an additional civil penalty for
18 a violation that is the subject of the assessment
19 by the Administrator unless the court finds that
20 the assessment constitutes an abuse of discre-
21 tion by the Administrator.

22 “(C) FORUM.—Notwithstanding section
23 1448(a)(2), a penalty order issued under this
24 subsection shall be subject to judicial review
25 only under subparagraph (A).

1 “(7) SUBPOENAS.—The Administrator may, in
2 connection with administrative proceedings under
3 this subsection or in connection with investigations
4 conducted pursuant to this title, issue subpoenas for
5 the attendance and testimony of witnesses and sub-
6 poenas duces tecum, and may request the Attorney
7 General to bring an action to enforce any subpoena
8 under this title. The district courts shall have juris-
9 diction to enforce such subpoenas and impose sanc-
10 tion.”.

○

HR 4314 IH——2

HR 4314 IH——3

HR 4314 IH——4